



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,105	02/21/2002	Steven C. Gevaert	335.084	1691

7590 08/21/2003

Andrew S. McConnell
Boyle, Fredrickson, Newholm, Stein & Gratz, S.C.
Suite 1030
250 E. Wisconsin Avenue
Milwaukee, WI 53202

EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
----------	--------------

3636

DATE MAILED: 08/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/080,105

Applicant(s)

GEVAERT, STEVEN C.

Examiner

Stephen D'Adamo

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-14 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8, 12-14 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 10, 11 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Tolleson (5,039,163).

Figures 1-3 of Tolleson disclose a unitary seat with pockets 14 and a backrest with pockets 12. The flat or blade spring 56 has a lower section engaged with the unitary seat and an upper section engaged with the backrest. Tolleson states, “to limit the bending of the upper backrest portion 12 relative to the lower backrest portion 14, the distal ends of each leg member 58 and 60 are formed with outwardly extending flanges 68 and 70” (col.4, lines 51-55). Figure 1 shows a space between the seat and backrest and the spring 56 includes an intermediate member located between the seat pocket and backrest pocket (defined as the space between gaps 70 and 68). “a slight gap 71 is provided between the two flanges 68 as well as a slight gap 72 between the two flanges 70” (col.5, lines 20-22). Figure 2 shows the lower portion of the lower section of the spring fixed with fasteners 66 while the upper portion of the lower section of the spring is spaced from a forward facing surface. Initial rearward movement results in the engagement, prior to the engagement of the rearward facing wall, “the upper backrest portion 12 rotates through the larger gap 72 until it engages against the flange 70” (col.5, lines 29-31). Figure 2 also

Art Unit: 3636

shows the lower portion of the upper section of the spring spaced forward of the rear surface of the backrest pocket. As the backrest continues to rotate along line "A" in Figure 3, the backrest attains a second and final position while the spring engages with the rearward facing wall. The resistance to further bending beyond the final position is provided by the gap 72, as stated, "Further maximum use of limited space available for the flexing or angular movement of the spring is permitted" (col.5, lines 47-49).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tolleson (5,039,163) in view of Ballarini (4,585,272).

Tolleson teaches of a limit member for restricting angular movement of a backrest however, the limit member does not consist of a limit strap. Ballarini does teach of a limiting member in the form of a limit strap. Ballarini discloses, "a first resilient return member, generally indicated 30, is connected to the backrest 16 and comprises a flexible blade element 32 extending transverse the articulated segments 18, 20, 22" col.4, lines 52-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flexible backrest assembly of Tolleson with another limiting member including of a limit strap, as taught by Ballarini, for additional resistance to angular movement of the backrest.

Allowable Subject Matter

3. Claims 2-8, 12-14 and 18-20 are allowable over the prior art.

Response to Arguments

4. Applicant's arguments filed 10 July 2003 have been fully considered but they are not persuasive.

Regarding independent claim 10, as stated in the previous and current rejection, Tolleson does show a space between the pivot bar or blade 56. As seen in Figure t3, Tolleson suggests the intermediate area of the pivot bar resists rearward pivoting movement after engaging with the back pocket and seat pocket surfaces. The pivot bar or blade 56 does engage with both surfaces when the backrest frame portions are flexed.

Regarding independent claim 17, Ballarini teaches of a limit arrangement 30 or parts arranged to limit movement. Specifically, Ballarini teaches of an additional blade element 32 attached to resilient members 18, 20 and 22. Therefore, with the teaching of Ballarini's additional blade element 32, it would have been obvious to use the additional blade element 32 on Tolleson's reinforced flexible backrest for added reinforcement.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

Art Unit: 3636

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1018.

SD

sd

August 14, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600